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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,374	01/14/2002	Taka Migimatsu	017991-000211US	7420
30968	7590	05/22/2008		
ZYTEK COMMUNICATIONS CORPORATION ONE MARKET STREET, SPEAR TOWER SUITE 3600 SAN FRANCISCO, CA 94105			EXAMINER	
			JAIN, RAJ K	
			ART UNIT	PAPER NUMBER
			2616	
MAIL DATE	DELIVERY MODE			
05/22/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/047,374	<b>Applicant(s)</b> MIGIMATSU, TAKA
	<b>Examiner</b> RAJ K. JAIN	<b>Art Unit</b> 2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 26 March 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1,2,4,5 and 31-62 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,4,5 and 31-62 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 14 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

Examiner acknowledges and accepts receipt of Rule 130, 131 or 132 affidavit submitted by Applicant overcoming the Gordon et al (US 006011794A) prior art. Thus based on the submitted affidavit, Applicant's arguments with respect to claims 1, 2, 4, 5, 31-62 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1, 2, 4, 5, 31- 62 are rejected under 35 U.S.C. 102(e) as being anticipated by Gordon (USP 5,608,786).

Regarding claims 1, 4, 34, 40 and 43, Gordon discloses a system (Fig. 1) for transmitting 16, 24 and receiving 16, 24 voice messages from a caller over a network (PSTN and internet) (10, 4) said system comprising:

a first access device 6 (Fig.1), coupled to a network 10 and to a first communication medium 16 (Fig. 1, illustrates access devices 6 at either ends of the network system coupled via the internet 4);

a first access device 6 (fig. 1) comprising a voice encoding device (col 4 lines 63-65; col 5 lines 8-10) configured to receive a first voice signal from a first voice device 16 and generate digital message file (Fig. 1, each Unipost Access node converts incoming voice signal to a message file, col 5 lines 35-50; col 9 lines 5-9.); and

a transmission device for transmission of said digital message file through said network 4 (Figs. 1 & 4, the access nodes 6 inherently include transmission and receiving functional devices for transmission or reception of digital data, col 9 lines 12-16).

Regarding claims 2, 35, 38, 41, 53, 56, 58, and 59, Gordon discloses a packet switched network (Fig. 1, ref. 4).

Regarding claims 5, 31, 36, 42, 45, 50, 54, 55, 57, and 61-62, Gordon discloses (Fig. 1) first voice device 16 is a telephone and said first telecommunication medium is a telephone line (see Fig. 1, voice device 16 connected via public switched telephone lines.).

Regarding claims 32, 37 and 39, Gordon discloses a second access device 6 (Figs 1, 4 and 5, one skilled in the art will appreciate a reciprocal system of the Toronto UAN can and shall be found at other UAN's across the globe, therefore the system of Toronto can be seen as the receiving end as well as the transmitting end in this case), said second access device being coupled to network 4 and to a second telecommunication medium (10), wherein said second access device 6 includes a receiving device 16 for receiving digital data from said network 4, voice decoding device

6 decodes the digital message file after receiving the digital message from another UAN.

Regarding claims 33, 44, 46-49 and 51 and 52, Gordon discloses each access node or device 6 (Fig. 1) has a storage medium for storing the digital message files, (col 2 lines 5-11, 25-35; col 3 lines 35-50; col 5 lines 40-45).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJ K. JAIN whose telephone number is (571)272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Raj K. Jain/*

*Primary Examiner, Art Unit 2616*

May 23, 2008